

05-10592
USDC/MA
Harrington

MANDATE

**United States Court of Appeals
For the First Circuit**

No. 05-2222

ALBERT RAINES,
Petitioner, Appellant,
v.

COMMONWEALTH OF MASSACHUSETTS,
Respondent, Appellee.

Before
Lynch, Lipez and Howard,
Circuit Judges.

JUDGMENT

Entered: January 11, 2006

We deny the certificate of appealability because petitioner has not shown that "jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000). After careful review of petitioner's claims and the district court record, we conclude that the district court properly dismissed petitioner's pre-trial habeas petition for lack of exhaustion of the state remedies available to him. In re Justices of the Superior Court, 218 F.3d 11, 16-18 (1st Cir. 2000); see also Neville v. Cavanagh, 611 F.2d 673, 675-76 (7th Cir. 1979). Moreover, the petition should be dismissed because the pre-trial relief requested from this court violates the "fundamental policy against federal interference with state criminal proceedings." Younger v. Harris, 401 U.S. 37, 46 (1971).

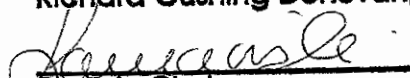
The request for a certificate of appealability is **denied** and this appeal is terminated.

By the Court:

Richard Cushing Donovan, Clerk.

Certified and Issued as Mandate
under Fed. R. App. P. 41.

Richard Cushing Donovan, Clerk


Deputy Clerk

Date: 2/2/06

By: MARGARET CARTER
Chief Deputy Clerk.

[cc: Albert Raines, Mark David Lieber, AAG]